

1 ANDRÉ BIROTTE JR. (CSBN 155627)
2 United States Attorney, Central District of California

3 JUSTIN R. RHOADES (CSBN 230463)
4 XOCHITL ARTEAGA (CSBN 227034)
5 Assistant United States Attorneys
6 Special Assistants to the U.S. Attorney General

7 1500 U.S. Courthouse
8 312 North Spring Street
9 Los Angeles, California 90012
10 Telephone: (213) 894-3380/0500
11 FAX: (213) 894-3713
12 Email: justin.rhoades@usdoj.gov
13 xochitl.artega@usdoj.gov

14 Attorneys for Plaintiff

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 UNITED STATES OF AMERICA,)	No. CR 10-703-MMC
)	
19 Plaintiff,)	
)	PROPOSED ORDER
20 v.)	
)	
21 MICHAEL HIGGINBOTHAM,)	
)	
22 Defendant.)	
23)	
24)	

25 Upon a showing of good cause, the Court finds that by his Motion to Vacate, Set Aside or
26 Correct His Sentence, filed on December 7, 2011, defendant Michael Higginbotham (“defendant”)
27 raises claims of ineffective assistance of counsel and that the government cannot fully respond to
28 these claims without the requested waiver of the attorney-client privilege and requested discovery.
The Court therefore ORDERS that a response from the government to the motion is stayed until
further order of the Court.

The Court finds that if defendant chooses to proceed with the claims raised in his motion, he has
waived the attorney-client privilege in limited part, specifically as to the matters raised in that
motion. Therefore, the Court ORDERS that defendant respond within 30 days whether he will
withdraw the claims raised in his motion.

1 The Court further finds that upon a response from defendant, if defendant chooses to proceed
2 with his motion, it will enter a further order that (1) defendant has waived the attorney-client
3 privilege in limited part, specifically as to the areas raised in the Motion to Vacate, Set Aside or
4 Correct His Sentence, filed December 7, 2011; (2) that the government is entitled to inquire of First
5 Assistant Federal Public Defender Geoffrey Hansen regarding any oral communications with
6 defendant and review any written communications with the defendant relating to the subject areas
7 raised in defendant's claims; (3) that the government is precluded from using the privileged materials
8 for any purpose other than litigating the Motion to Vacate, Set Aside or Correct His Sentence; and
9 (4) that the government may not disclose these materials to any other persons, including law
10 enforcement or prosecutorial agencies, excluding other representatives of the United States
11 Attorney's Office who are assisting in responding to this motion.

12 SO ORDERED:

13 Dated: January 4, ²⁰¹²~~2011~~


HONORABLE MAXINE M. CHENEY
United States District Judge